

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION

Brian Keith Maynor,

Civil Action No. 1:21-cv-742-CMC

Plaintiff,

vs.

**ORDER**

Cpl. Primus; Lt. Shirah; and Sumter-Lee  
Regional Detention Center,

Defendants.

This matter is before the court on Plaintiff's Complaint filed March 16, 2021. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), D.S.C., the matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings. On March 17, 2021, the Magistrate Judge entered a Proper Form Order, directing Plaintiff to complete a summons for each Defendant as required to advance his case by April 7, 2021.<sup>1</sup> ECF No. 6. In addition, the Magistrate Judge entered an Order and Notice the same day, informing Plaintiff of deficiencies in his Complaint and allowing him to file an Amended Complaint by April 7, 2021. ECF No. 8. No response or any filing was received. On April 12, 2021, the Magistrate Judge entered a second Proper Form Order, directing same and allowing until April 24, 2021 to do so. ECF No. 10. No response was received. In both Orders, Plaintiff was warned failure to comply would subject the case to dismissal.

On April 27, 2021, the Magistrate Judge issued a Report and Recommendation ("Report") recommending this matter be summarily dismissed without prejudice and without issuance and

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<sup>1</sup> Plaintiff was also notified of the requirement to update his address with the court as necessary.

service of process for failure to prosecute. ECF No. 13. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. It was noted in the Report Plaintiff was not listed as a current inmate of Sumter-Lee Detention Center; however, the court has not received any updated address information from Plaintiff. The copy of the Report sent to Sumter-Lee Detention Center was returned marked with a label stating “Return to Sender. Vacant. Unable to forward,” and written on the envelope in red ink “NOT Here.” ECF No. 15.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After a review of the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error, and agrees this matter should be dismissed. Plaintiff has not responded to multiple orders of the court, and has not met his obligation to keep

the court notified of updated address information. Accordingly, the court adopts the Report by reference in this Order. This matter is dismissed without prejudice and without issuance and service of process.

**IT IS SO ORDERED.**

s/Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
Senior United States District Judge

Columbia, South Carolina  
May 20, 2021